

AMENDED IN SENATE MAY 2, 2006
AMENDED IN SENATE APRIL 18, 2006
AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1377

Introduced by Senator Soto

February 21, 2006

An act to add ~~Section 39600.5~~ *Section 3900.5 and 39619.7* to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1377, as amended, Soto. State Air Resources Board: ~~memorandum of understanding~~ *powers and duties*.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by law.

This bill would authorize the state board to enter into an agreement, including a memorandum of understanding, with a public or private entity, as provided, and would require the state board to perform specified functions in entering into an agreement. The bill would require the state board to submit annual reports on all existing agreements to the Legislature, as provided. ~~The bill would provide that its provisions apply retroactively to any memorandum of understanding or agreement entered into by the executive officer of~~

~~the state board on or after June 1, 2005, and would state legislative findings and declarations and legislative intent regarding its application to a designated document. This bill would require the state board to develop and implement policies to strengthen community outreach and education and enhance public participation in state and local decision-making processes, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The Legislature finds and declares that the~~
2 ~~State Air Resources Board maintains that the document entitled~~
3 ~~“ARB/Railroad Statewide Agreement: Particulate Emissions~~
4 ~~Reduction Program at California Rail Yards: June 2005,” entered~~
5 ~~into by the executive officer of the state board, the BNSF~~
6 ~~Railway Company, and the Union Pacific Railroad Company is~~
7 ~~not a binding contract because the document has not yet been~~
8 ~~ratified by the state board at a public meeting.~~

9 ~~(b) This act is intended to apply to the document described in~~
10 ~~subdivision (a).~~

11 ~~SEC. 2.~~

12 ~~SECTION 1.~~ Section 39600.5 is added to the Health and
13 Safety Code, to read:

14 39600.5. (a) The state board may enter into an agreement,
15 including a memorandum of understanding, with a public or
16 private entity, necessary for the proper execution of the powers
17 and duties granted to, and imposed upon, the state board by this
18 division and by any other provision of law.

19 (b) Any agreement entered into which serves to reduce
20 emissions shall be no longer than two years in duration, and shall
21 address unregulated or under regulated sources, and shall
22 continue only until appropriate regulation or legislation is
23 enacted to address those unregulated or under regulated sources.

24 (c) Any agreement pursuant to this section shall provide
25 opportunities for public participation, consistent with normal
26 rulemaking processes by the state board.

27 (d) The state board shall ratify all agreements, including, but
28 not limited to, those entered into by the executive officer of the
29 state board to reduce emissions.

1 (e) Prior to ratifying an agreement, the state board shall
2 perform all of the following functions:

3 (1) Consult with, and consider the suggestions of, the public
4 and all interested parties, including, but not limited to, the
5 Legislature, the California Air Pollution Control Officers
6 Association, and all entities affected by the agreement.

7 (2) Conduct at least three public workshops, located in
8 affected areas of the state, to solicit comments on the proposed
9 agreement.

10 (3) Prepare a written report relating to the agreement that
11 contains at least all of the following:

12 (A) A description of the public participation process, including
13 public opinions and recommendations relating to the agreement.

14 (B) A description of the emissions reductions achieved by the
15 agreement. Targeted emissions reductions shall be from an
16 established baseline, and shall be permanent.

17 (C) An assessment of the local cumulative impacts and
18 environmental justice implications.

19 (D) An analysis of the methods of compliance and
20 enforceability of the agreement.

21 (E) An analysis of the agreement pursuant to the California
22 Environmental Quality Act, including an analysis of the
23 significant environmental impacts, alternatives, and mitigation
24 measures that would reduce these impacts. For agreements
25 entered into with private parties, any costs incurred in the
26 preparation of this analysis shall be borne by the private parties.

27 (4) Evaluate and incorporate the best available control
28 technologies and new emerging alternative technologies into the
29 agreement, to the extent feasible.

30 (5) Initiate the development of appropriate legislation.

31 (6) The chairperson of the state board shall consult with the
32 Legislature. At the discretion of the Legislature or any committee
33 thereof, the chairperson of the state board or his or her designated
34 representatives shall testify before the Legislature or committee
35 to explain the rationale for the agreement, including why current
36 authority does not support a regulatory approach.

37 (f) Agreements that the state board ratifies shall be reevaluated
38 every year, and the state board shall submit annual reports on all
39 existing agreements to the Legislature that include ~~but~~, *but are*
40 not limited to, all of the following:

(1) An evaluation of the effectiveness of every agreement, annual reevaluations of every agreement, as applicable, and an analysis of compliance, participation rates, and enforceability of each agreement.

(2) The status of any memorandum of understanding.

(3) An evaluation of the emissions reductions achieved through the agreement.

(4) An evaluation of the best available control technologies and new emerging alternative technologies for the applicable pollution sources categories incorporated by the agreement.

(g) Failure to comply with this section shall invalidate any agreement not otherwise expressly authorized by law.

~~(h) The provisions of this section shall apply to any memorandum of understanding or agreement entered into by the executive officer on or after June 1, 2005.~~

~~SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

SEC. 2. Section 39619.7 is added to the Health and Safety Code, to read:

39619.7. (a) (1) The state board shall develop and implement policies to strengthen community outreach and education and enhance public participation in state and local decision-making processes related to air quality, especially in low-income and minority communities. The state board shall, with the input of the local communities and the partnership of the local air districts, make the information already available more accessible, and develop additional information to educate local communities on the public process used to make state and local decisions related to air quality.

(2) The state board shall make all information available, in English and other languages as appropriate, to communities in an easily understood and useful format, including, but not limited to, the use of fact sheets, mailings, brochures, and Internet Web pages.

(b) The state board shall do all of the following:

(1) (A) Hold all public meetings in the communities affected by its programs, policies, and regulations at times and in places that encourage public participation, including, where

1 *appropriate, evenings and weekends at libraries, schools, and*
2 *other centrally located meeting areas.*

3 *(B) Assess the need for and where appropriate provide*
4 *translation services at public meetings.*

5 *(C) Hold additional community meetings to update an affected*
6 *community on the results of special air monitoring programs*
7 *conducted in their neighborhoods.*

8 *(D) In coordination with local air districts, make staff*
9 *available to attend meetings of community organizations and*
10 *neighborhood groups to listen and, where appropriate, act on*
11 *community concerns.*

12 *(2) (A) Develop and maintain an Internet Web site dedicated*
13 *to community health that includes, but is not limited to,*
14 *information on children's health issues, neighborhood air*
15 *monitoring results, pollution prevention, risk reduction, and*
16 *environmental justice activities.*

17 *(B) Develop and maintain an Internet Web site that provides*
18 *access to the best available information about sources of air*
19 *pollution in neighborhoods. Include, with this information,*
20 *information about ongoing activities to improve the quality of the*
21 *information, and the limitations and uncertainties associated*
22 *with the information.*

23 *(3) Encourage and promote community access to the best*
24 *available information in air quality databases, emissions*
25 *inventories, and other information archives that already exist.*

26 *(4) Create and distribute a simple and understandable air*
27 *quality public participation handbook.*

28 *(5) (A) Establish a contact person that can address*
29 *environmental justice issues within the Chairman's Office.*

30 *(B) Distribute information on how to contact the Chairman's*
31 *Office and the Public Information Office to obtain information*
32 *and assistance regarding the state board's environmental justice*
33 *programs, including information on how to participate in the*
34 *public process.*

35 *(6) Distribute fact sheets regarding the Children's*
36 *Environmental Health Program, the Community Health*
37 *Program, and the environmental justice policies of the state*
38 *board.*

- 1 (7) *Consistent with all other laws, minimize, reduce, and,*
2 *where practicable, eliminate, fees for publicly available*
3 *information, and encourage local air districts to do the same.*
4 (8) *Increase public awareness of the state board's actions in*
5 *protecting public health throughout the kindergarten and grades*
6 *1 to 12, inclusive, education system and other community*
7 *outreach programs.*